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3
4 BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
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6 In the Matter of:)
7)

8 PUBLIC HEARING AND CONSIDERATION OF)
9 THE IMPOSITION OF PENALTIES AGAINST)

FINDINGS AND ORDER

10 **THE CITY OF McFARLAND**)
11)

12 PURSUANT TO COMPLIANCE ORDER)
13 IWMA BR 03-01)

14 (PUBLIC RESOURCES CODE 41850))
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16 A duly convened public hearing before the California Integrated Waste Management Board
17 ("CIWMB") having been held on July 13, 2004, in Sacramento, California, in which the City of
18 McFarland participated, and based on the testimony and other evidence presented at that hearing
19 and based on the oral and written arguments made by the parties, City of McFarland and Staff of
20 CIWMB,
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22 THE CIWMB DOES HEREBY MAKE THE FOLLOWING FINDINGS:
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- 24 1. Public Resources Code (PRC) Section 41780 requires each City or County Source
25 Reduction and Recycling Element (SRRE) to include an implementation schedule
26 that shows how the City or County shall divert 50 percent of all solid waste on and
27 after January 1, 2000, through source reduction, recycling, and composting activities.
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2. PRC Section 41825 requires the CIWMB to review each City, County, and Regional Agency's Source Reduction and Recycling Element at least every two years.
3. PRC Section 41825 provides that if the CIWMB finds that the City, County, or Regional Agency has failed to implement its SRRE, the CIWMB shall issue an order of compliance with a specific schedule for achieving compliance that shall include those conditions which the CIWMB determines to be necessary for the jurisdiction to complete in order to implement its SRRE.
4. PRC Section 41850 provides that if after holding a public hearing and issuing an order of compliance pursuant to Section 41825, the CIWMB finds that the City, County, or Regional Agency has failed to make a good faith effort to implement its SRRE, the Board may impose administrative civil penalties upon the jurisdiction of up to ten thousand dollars (\$10,000) per day until the jurisdiction implements the element.
5. Based on the staff review of the jurisdiction's implementation of programs identified in its SRRE, the CIWMB determined at a public hearing held on January 14, 2003, that the City of McFarland had not made a good faith effort to implement the programs as identified in their SRRE that target significant portions of the City's waste stream and had achieved a diversion rate of only 34% for the year 2000, and issued Compliance Order No. IWMA BR03-01.
6. The compliance order included specific requirements that the City was to meet, including working with the CIWMB to develop a Local Assistance Plan, with expanded and new programs designed to achieve achieve a 50% diversion rate, that the City would agree to by June 30, 2003.

- 1 7. The City received an extension for submitting the Local Assistance Plan until August
2 31, 2003. On August 29, 2003, the City did submit the final Local Assistance Plan
3 and agreed to implement the tasks specified by the due dates listed in that plan.
- 4 8. The City failed to implement the majority of the tasks in the Plan that were to be
5 completed by March 31, 2004. Accordingly, the City of McFarland failed to comply
6 with the CIWMB's Compliance Order No. IWMA BR03-01 requiring
7 implementation of the Local Assistance Plan, and failed to show that it had made a
8 good faith effort to implement its SRRE.
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11 BASED UPON THESE FINDINGS, THE CIWMB DETERMINED TO IMPOSE PENALTIES
12 IN THE FOLLOWING AMOUNTS PURSUANT TO PUBLIC RESOURCES CODE
13 SECTION 41850:
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- 15 1. The sum of \$11,330 is immediately due and payable. This Penalty is based upon a fine of
16 \$110 per day for the period of time from the due date in the Local Assistance Plan (March 31,
17 2004) until the date of the penalty hearing (July 13, 2004).
- 18 2. A contingent penalty of \$36,960 will be due in the event that the City of McFarland fails
19 to achieve by December 31, 2004, compliance with the Local Assistance plan. This penalty is
20 based upon a fine of \$220 per day commencing from the date of the penalty hearing. The
21 Executive Director of the CIWMB shall determine whether the City of McFarland has achieved
22 compliance by December 31, 2004.
- 23 3. If compliance is not achieved by December 31, 2004, the CIWMB will consider
24 additional future penalties after an appropriate hearing.
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3 SO ORDERED by the California Integrated Waste Management Board, on the 13th day of July,
4 2004, in Sacramento, California, by the following vote:

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6 AYES: Chair Moulton-Patterson; Boardmembers Marin, Mulé, Paparian, Peace, and
Washington.

7 NOES: None

8 ABSTAIN: None

9 ABSENT: None

10 DATED:



11 Linda Moulton-Patterson
12 Chair
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